I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 71/188, in which the Assembly requested the Secretary-General to submit to it at its seventy-third session a report on the latest developments, challenges and good practices in human rights in the administration of justice, including on efforts to ensure equal access to justice for all through the independent, impartial and effective administration of justice, and on the activities undertaken by the United Nations system as a whole.

2. Issues relating to the death penalty are intimately linked to human rights in the administration of justice but are not addressed in detail in the present report, as they are covered in specific reports to the Human Rights Council and the General Assembly.[1]

II. Developments and challenges in human rights in the administration of justice

3. Outlined in the present section are some of the main human rights challenges in the administration of justice and relevant recent developments since the previous report of the Secretary-General on human rights in the administration of justice (A/71/405), which was submitted to the General Assembly at its seventy-first session in 2016. During the past two years, there have been developments in two relevant areas: access to justice and the impact of criminal justice on certain groups.

A. Access to justice

Access to justice and the protection of rights

4. The right to an effective remedy for persons whose rights have been violated is clearly recognized in international human rights law.[2] Equal and effective access to justice is an essential component of the right to a remedy[3] and can be implemented only by an independent and impartial justice system offering all guarantees of due process. During the reporting period, several human rights mechanisms highlighted the importance of access to justice in the legal protection of human rights. Human rights mechanisms also provided guidance on the interpretation and implementation of access to justice.

5. In its resolution 36/16, the Human Rights Council emphasized that the right of access to justice for all, including access to legal aid, forms an important basis for strengthening the rule of law through the administration of justice. The Council also invited Governments to allocate adequate resources for fair and effective justice systems, including for the provision of legal aid services, with a view to promoting and protecting human rights.

6. The independence and impartiality of the judiciary and the independence of lawyers and the legal profession are recognized as necessary for equal access to justice for all. In this context, the Human Rights Council, in its resolution 35/12,

[1] See, for example, A/73/260 and A/HRC/39/19.

[2] See, for example, International Covenant on Civil and Political Rights, art. 2, para. 3, and Universal Declaration of Human Rights, art. 8.

[3] See principle 7 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

condemned the increasingly frequent attacks on the independence of judges, lawyers, prosecutors and court officials. The numerous communications sent during the reporting period by special procedures mandate holders concerning the independence of judges and lawyers[4] serve as another indication of the extent to which this independence, although essential for the proper administration of justice, is challenged.

7. The Special Rapporteur on the independence of judges and lawyers, in a report of 2017 (A/HRC/35/31), outlined a number of concerns, including with respect to interference with, pressure on and threats against the judiciary and lawyers, and the negative impact of judicial corruption on the rule of law and the ability of the judiciary to protect human rights. Also highlighted were restrictions on the right to a fair trial, in particular in the context of states of emergency or national security cases, trials before military courts and situations of armed conflict. The Special Rapporteur also issued a report on judicial councils (A/HRC/38/38), in which he highlighted their role in protecting the judiciary from external political pressure, thereby contributing to judicial independence.

8. In 2017, the Committee on Economic, Social and Cultural Rights adopted general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, in which it sets out some of the obstacles faced by victims of transnational corporate abuses to gaining access to an effective remedy and proposes measures that can be adopted by States to address those obstacles. The measures include the following: establishing parent company or group liability regimes; providing legal aid to claimants; enabling human rights-related class actions and public interest litigation; and ensuring that the availability of an effective remedy is an overriding consideration in judicial decisions relying on *forum non conveniens* considerations. The Committee also notes that civil remedies play an important role in ensuring access to justice for victims and that victims should be able to sue a business entity on the basis of the International Covenant on Economic, Social and Cultural Rights.

9. The Committee against Torture adopted its general comment No. 4 (2017) on the implementation of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the context of article 22 of the Convention, in which it outlines measures to be adopted by States to ensure an effective remedy against possible violations of the principle of non-refoulement. These measures include ensuring that individuals facing deportation are informed of their rights, provided with access to a lawyer and free legal aid, and enjoy the right to appeal a deportation order to an independent administrative and/or judicial body, with suspensive effect of the enforcement of the order.

10. In September 2017, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, submitted a thematic report to the Human Rights Council focused on access to justice and remedy for victims of contemporary forms of slavery (A/HRC/36/43). In the report, the Special Rapporteur highlighted the need to prosecute all forms of contemporary slavery and to ensure that victims are provided with the information and the assistance that will enable them to secure the reparations to which they are entitled. In country visit reports, the Special Rapporteur has also addressed the importance of access to justice for victims of all forms of slavery, including for their rehabilitation and reintegration (see A/HRC/33/46/Add.1).

[4] A search of the online database of communications sent and replies received (https://spcommreports.ohchr.org; accessed on 25 June 2018) indicates that more than 90 communications concerning the independence of judges and lawyers were sent from 1 June 2016 to 30 June 2018.

Access to justice for specific groups

11. In its general recommendation No. 36 (2017) on the right of girls and women to education, the Committee on the Elimination of Discrimination against Women recalls the obligation of States to ensure that girls and women have recourse to avenues of justice when discrimination results in their being denied access to all levels of education. The Committee also recommends that rights in education be recognized as legally enforceable and that girls and women be assured equal and effective access to justice and remedy when they are affected by violence in schools or when their right to education is violated. The Committee also adopted general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, in which it makes conclusions and recommendations related to the administration of justice. In particular, the Committee addresses the implementation of alternative dispute mechanisms and stresses that these alternative procedures should not constitute an obstacle to the access of women to formal justice. The Committee also recommends that legal systems ensure that victims/survivors of gender-based violence are protected and have access to justice and an effective remedy.

12. During the reporting period, the Committee on the Rights of the Child adopted two general comments addressing access to justice by children. In its general comment No. 20 (2016) on the implementation of the rights of the child during adolescence, it addresses the routine denial of access to justice or redress for adolescents with disabilities, victims of physical and sexual violence, and victims of child or forced marriage. The Committee also urges State parties to introduce juvenile justice policies emphasizing restorative justice, diversion from judicial proceedings and alternative measures to detention and preventive interventions, in order to reduce adolescents' vulnerability as both victims and perpetrators of crimes. In its general comment No. 21 (2017) on children in street situations, the Committee highlights the challenges faced by such children in gaining access to justice, including a lack of proof of identity, police misconduct, such as harassment or extortion, and discriminatory treatment within juvenile justice systems. The Committee recalls that children who have been subjected to human rights violations have the right to effective legal and other remedies and that States should take action to secure the ability of children in street situations to gain access to justice. The Committee also notes that the rights of children in street situations should be guaranteed in the context of a restorative rather than punitive juvenile justice system.

13. In joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, the Committees recall that it is essential to ensure that all children are empowered to claim their rights in the context of international migration and that States must adopt proactive interventions to ensure effective access to justice. Children should have access to administrative and judicial remedies against decisions affecting their own situation, or that of their parents, to guarantee that all decisions are taken in their best interests. The Committees also examine the issue of the employment of migrant children, noting that children must have access to justice in case of violation of their rights by public or private actors. Effective complaints mechanisms and a firewall between labour rights and immigration enforcement must be established for effective access to justice in this context.

14. Access to justice continues to represent one of the main barriers to the protection of the rights of indigenous peoples. In its general comment No. 24 (2017), the Committee on Economic, Social and Cultural Rights addresses the issue of access to

justice for indigenous peoples who are victims of violations of their rights in the context of business activities. The Committee notes that effective access to justice for indigenous peoples may require States parties to recognize, in judicial proceedings, the customary laws, traditions and practices of indigenous peoples and their customary ownership over their lands and natural resources. The Committee also notes practical measures to ensure effective access to justice, such as the use of indigenous languages or interpreters in courts, the availability of legal services and information on remedies in indigenous languages, and specific training for court officials.

15. The Special Rapporteur on the rights of indigenous peoples, in two recent end of mission statements,[5] noted the serious obstacles faced by indigenous peoples to gaining access to justice. These include discrimination in the ordinary justice system, physical distance from justice administration institutions, language barriers, a lack of legal assistance, a lack of resources to pursue a case, fear of reprisals and a lack of trust. The Special Rapporteur also highlighted that recognition of indigenous jurisdictions could help in fighting impunity.

16. The Special Rapporteur on minority issues highlighted, in her report on discrimination based on caste and analogous systems of inherited status (A/HRC/31/56), the impact of entrenched caste discrimination on access to justice. Such discrimination creates obstacles at all stages of the legal process, from the refusal by the police to register complaints owing to caste prejudice and the deference shown to perpetrators from higher castes to long pretrial periods and high acquittal rates for crimes where the victim belongs to a lower caste.

17. One of the key pillars of the Regional Action Plan on Albinism in Africa (2017–2021), developed by the Independent Expert on the enjoyment of human rights by persons with albinism, is accountability (see A/HRC/37/57/Add.3). The Plan sets out specific measures to improve access to justice for persons with albinism, to combat impunity for attacks against them and to provide psychosocial, medical, legal and socioeconomic support to victims of attacks. The Independent Expert, in reports following country visits, has addressed the issue of impunity for attacks against persons with albinism and made recommendations related to improving their access to justice (see A/HRC/34/59/Add.1).

18. In his most recent thematic report to the Human Rights Council (A/HRC/38/43), the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity addressed some of the obstacles faced by lesbian, gay, bisexual, trans and gender non-conforming persons to gaining access to justice. These obstacles affect all elements of the justice chain and include underreporting, negligent investigations and prosecution, and often low conviction rates. In another report, the Independent Expert underlined that, even where there are laws to protect people from discrimination, implementation remains problematic (see A/HRC/35/36, para. 56). Combined with social prejudice, this marginalizes lesbian, gay, bisexual, trans and gender non-conforming persons and excludes them from gaining access to essential services, including the justice system. The Independent Expert recommended the adoption of effective and comprehensive anti-discrimination measures addressing both de jure and de facto discrimination (ibid.). The Independent Expert also formulated a number of concrete recommendations aimed at improving access to justice for victims of crimes based on sexual orientation and gender identity, including the adoption of specific policies, guidelines and protocols related to sexual orientation and gender identity, and the

[5] Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23068&LangID=E; and www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22411&LangID=E.

provision of specialized training to law enforcement personnel and persons working in the justice system to address unconscious bias that may permeate investigations and prosecutions (see A/HRC/38/43, para. 95).

19. The Committee on the Rights of Persons with Disabilities adopted its general comment No. 6 (2018) on equality and non-discrimination, in which it recalls that access to justice, including through the provision of legal aid to claimants in discrimination litigation, is essential to the effective enjoyment of the rights to equality and non-discrimination. The Committee sets out practical measures that States can adopt to ensure access to justice, including the recognition of judicial remedies of a collective nature and class actions in situations that affect groups of persons with disabilities. In its general comment No. 5 (2017) on living independently and being included in the community, the Committee notes the essential nature of access to justice for persons with disabilities who seek to enforce their right to living independently in the community. In its general comment No. 3 (2016) on women and girls with disabilities, the Committee outlines the barriers faced by women and girls with disabilities to gaining access to justice, including with regard to exploitation, violence and abuse, often owing to harmful stereotypes, discrimination and a lack of procedural and reasonable accommodations. The dismissal of testimonies of women with intellectual or psychosocial disabilities in court proceedings was highlighted as an example of direct discrimination resulting in the denial of justice, in particular when those women are victims of violence.

20. The right to access to justice by persons with disabilities was addressed in detail in a report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) (A/HRC/37/25). Among other concerns, OHCHR examined the need for accessibility and access to information to allow for effective participation in legal proceedings and the implementation of procedural and age-appropriate accommodations in order to ensure "equality of arms", a jurisprudential principle developed by both international and regional human rights institutions to guarantee that the same procedural rights are provided to all parties to ensure access to the same information and the same opportunities to adduce and challenge evidence. This is in addition to equal access to justice, the right to claim justice and stand trial, the presumption of innocence and legal aid. OHCHR highlighted not only the impact of discriminatory laws and practices but also how attitudinal barriers affect access to justice for persons with disabilities.

21. In a report to the Human Rights Council (A/HRC/37/56), the Special Rapporteur on the rights of persons with disabilities provided guidance on the right to equal recognition before the law for persons with disabilities, paying particular attention to the process of law reform on legal capacity. The recognition of the right to legal capacity was underscored as fundamental to guaranteeing access to justice, but access to justice was also highlighted as essential for the protection and restoration of legal capacity.

22. During its fifteenth session, the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action recognized the vulnerability of people of African descent to social and racial profiling and to overrepresentation in the criminal justice system as a result of structural racism and discrimination occurring at all stages and levels of the administration of justice, including in legislation, law enforcement, courts and tribunals, and detention facilities. The Working Group recommended that victims of acts of racism, racial discrimination, xenophobia and related intolerance be provided with expeditious access to justice and adequate redress (see A/HRC/37/77).

23. During its country visits, the Working Group of Experts on People of African Descent found that a disproportionate number of people of African descent around

the world are victims of police violence and racial profiling by law enforcement agencies, and they are increasingly denied justice. The Working Group has therefore addressed administration of justice at several sessions, including its twenty-second session, at which a panel discussion was held on the theme "Administration of justice: police violence, prisons and accountability".[6] The issue of justice for people of African descent has also been reinforced by the theme of the International Decade for People of African Descent (2015–2024), namely, "Recognition, justice and development".

B. Discrimination in criminal justice and its impact on certain groups

24. Highlighted in the present section are some of the conclusions reached by treaty bodies, special procedures and the United Nations High Commissioner for Human Rights.

25. In situations in which persons with increased vulnerability come into contact with institutions linked to the administration of justice, the right to equality and non-discrimination represents an important safeguard against unsafe convictions, overincarceration and the resulting overcrowding of detention facilities. Overrepresentation of individuals from specific groups in detention often results from the discriminatory attitudes of the wider society. Police officers, court staff and other justice sector personnel often reflect those attitudes and may not be trained to perform their roles without discrimination or bias (see A/67/278, para. 45). If a disproportionate number of persons from a specific group come into contact with the police as a result of bias, persons belonging to this specific group will, similarly, be overrepresented throughout the penal chain, even when the judiciary functions impartially (see A/70/212, para. 18). In addition to discriminatory attitudes, legislation targeting specific groups or criminalizing certain behaviours attributable primarily to specific groups of persons may have a disproportionate and discriminatory impact on persons with increased vulnerability, resulting in their overincarceration.[7]

26. Limited access to information, a lack of effective judicial review and inadequate access to legal counsel have a particular impact on such groups as migrants,[8] linguistic minorities,[9] foreign nationals,[10] children[11] and women,[12] and increase the risk of overincarceration.

27. Laws imposing curfews may specifically target children, truancy laws and vagrancy offences may penalize children for being in public places, and so-called disobedience laws may transform activities that would be lawful for an adult into a criminal offence for a child, resulting in their arrest and detention (see A/HRC/36/28 and CRC/C/PAN/3-4, para. 41). Legislation concerning the age of criminal responsibility may also be an important factor contributing to the overincarceration of children (see A/HRC/36/28). Ineffective juvenile justice systems, including those

[6] See report prepared pursuant to Human Rights Council resolution 36/23 to be submitted to the Council at its thirty-ninth session.

[7] See submission from the United Nations Office on Drugs and Crime (UNODC) pursuant to Human Rights Council resolution 30/7.

[8] See European Court of Human Rights, *Raoufi and others v. Greece*, Intervener Brief filed by the United Nations High Commissioner for Human Rights, 2 September 2016.

[9] See A/70/212, para. 31.

[10] See CMW/C/URY/CO/1, para. 25.

[11] See CRC/C/GIN/CO/2, para. 85 (e); CRC/C/BFA/CO/3-4, para. 76 (b); CRC/C/ZMB/CO/2-4, para. 63; CRC/C/TUR/CO/2-3, para. 66 (b); and CRC/C/BEN/CO/3-5, para. 68.

[12] See CEDAW/C/GRC/CO/7, para. 34; and CEDAW/C/IRQ/CO/4-6, para. 48 (c).

that have an insufficient number of juvenile courts[13] or professionals with specialized training in juvenile justice,[14] increase the risk of overincarceration. In some contexts, there is systematic recourse to pretrial detention for children (see CRC/C/HND/CO/3, para. 80).

28. Laws may affect predominantly women[15] or discriminate against women by criminalizing forms of behaviour that are not criminalized or punished as harshly if they are performed by men,[16] resulting in the overincarceration of women. For example, this can be the case with laws criminalizing consensual sexual relations between adults outside marriage (see A/68/340) or adultery.[17] Even when they are victims of rape, trafficking, sexual exploitation or abuse, women may be imprisoned on charges of adultery or fornication.[18] The criminalization of abortion de facto criminalizes a procedure that can be performed only on women.[19] Procedural rules, such as evidence requiring corroboration in rape cases, may lead to women not being able to prove rape and therefore being sentenced for "moral crimes" more frequently than men (see A/68/340, para. 16, and A/HRC/13/39/Add.5, para. 219).

29. Migrants and asylum seekers also face overincarceration as a result of legislation that criminalizes the irregular entry[20] or facilitates the detention[21] of asylum seekers, refugees or migrants in an irregular migration situation.[22] Asylum seekers may also be affected by long periods of detention when States have provisions for extending detention periods.[23] Legislation[24] and policies providing for and practices resulting in the automatic and systematic detention of migrants in an irregular situation and asylum seekers, including families and children,[25] lead to their overincarceration.

30. Foreign nationals are disproportionately affected by drug-related offences and particularly vulnerable to detention (see A/HRC/36/28, para. 13). They often do not speak the language in which the legal proceedings take place, are unfamiliar with the laws under which they are charged and have inadequate access to legal assistance (see A/70/304, para. 77). Most foreign nationals fail to satisfy the conditions for conditional release owing to a lack of a permanent residence in the State concerned (see CERD/C/AUT/CO/18-20, para. 13) and therefore tend to be overrepresented in pretrial detention (see A/70/212, para. 29).

31. The criminalization of activities undertaken by persons living in poverty to survive, such as street vending, begging or panhandling (see A/66/265, para. 42), as well as the perception by law enforcement officials of poverty as an indicator of

[13] See CRC/C/DOM/CO/3-5, para. 71 (b).
[14] See CRC/C/TZA/CO/3-5, para. 72 (b); and CRC/C/BEN/CO/3-5, para. 68.
[15] See submission from UNODC.
[16] Committee on the Elimination of Discrimination against Women, general recommendation No. 33 (2015) on women's access to justice, para. 47 (a).
[17] Sometimes the law directly targets married women and not married men (see CEDAW/C/THA/CO/5, para. 19; E/C.12/1/Add.45, para. 17; and *Handbook on Women and Imprisonment: Criminal Justice Handbook Series*, 2nd ed. (United Nations publication, Sales No. E.14.IV.3), p. 123).
[18] *Handbook on Women and Imprisonment*, p. 123.
[19] Committee on the Elimination of Discrimination against Women, general recommendation No. 33 (2015), para. 47 (b).
[20] See European Court of Human Rights, *Raoufi and others v. Greece*.
[21] See CRC/C/MYS/CO/1, para. 82.
[22] See CMW/C/GIN/CO/1, para. 21 (a); and CERD/C/USA/CO/7-9, para. 18.
[23] See CMW/C/BIH/CO/2, para. 25 (a).
[24] See CRC/C/AUS/CO/4, para. 80 (a); CRC/C/MLT/CO/2, para. 57 (a); and CERD/C/USA/CO/7-9, para. 18.
[25] See CAT/C/AUS/CO/3, para. 11; CAT/C/GRC/CO/5-6, para. 20; and CMW/C/TUR/CO/1, para. 47 (a).

criminality (see A/67/278, para. 48), can result in a disproportionately high number of persons living in poverty being arrested, detained and imprisoned. Owing to their lack of resources to hire legal counsel, to produce unrealistic sums set as part of bail conditions or to afford the costly collection of exculpatory or mitigating evidence or expert testimony, persons living in poverty are also more likely to be placed, and to remain, in pretrial detention and to face a custodial sentence (see A/67/278, paras. 48–49 and 74).

32. The failure of legislation and policies related to the administration of justice to take into account the specificities of older persons may result in their overincarceration. Older prisoners have less access to alternatives to detention owing to difficulties in fulfilling early-release requirements, such as post-release work or attending required courses (see A/HRC/36/28). While in detention, older prisoners and persons with disabilities are often held in environments with areas that are inaccessible to them (see A/68/295, para. 45). As a result of overcrowding, ground-floor cells or floor-level bedding are unavailable, and resources to adapt the facilities, such as showers for those with special needs, and to provide the required specialized health care are insufficient (see A/HRC/36/28). In 2018, the International Committee of the Red Cross published a booklet on ageing and detention, in which it examines the phenomenon of the increasing number of older detainees worldwide and provides guidance on how conditions of detention for older prisoners can be improved.[26]

33. Mandatory minimum sentencing for drug-related offences and "tough-on-crime" legislation, such as repeat offender laws and the criminalization of petty offences, can lead to the overincarceration of racial and ethnic minorities (see CERD/C/USA/CO/7-9, para. 20). It is also reported that persons belonging to an ethnic minority, including those of African descent and Roma, are more likely to be stopped by police, searched, abused during the stop or subsequently arrested.[27] In her report on discrimination based on caste and analogous systems of inherited status (A/HRC/31/56), the Special Rapporteur on minority issues highlighted the disproportionate representation of lower castes in pretrial detention in particular, as a result of indiscriminate arrests, slow investigations and prosecutions, weak legal aid systems and inadequate safeguards.

III. Activities of the United Nations system

34. Promoting and protecting human rights in the administration of justice has been one of the focus areas of OHCHR at Headquarters and in the field through its country presences, regional offices and human rights components of peace operations and political missions. In more than 35 countries, OHCHR continued to advocate constitutional and legislative reforms to ensure compliance with human rights law relevant to the administration of justice. For example, OHCHR provided advice to Sierra Leone, Thailand and Ukraine on their efforts either to amend their existing constitutions or to draft new ones. In Guinea and Tunisia, OHCHR provided advice relating to amendments of the criminal and criminal procedure codes to ensure their compliance with human rights. In September 2016, the United Nations High Commissioner for Human Rights submitted, as a third party before the European Court of Human Rights in the *Raoufi and others v. Greece* case, an intervener brief

[26] International Committee of the Red Cross, "Ageing and detention" (Geneva, 2018).

[27] See Office of the United Nations High Commissioner for Human Rights (OHCHR), "Moving away from the death penalty: arguments, trends and perspectives" (New York, 2014); A/62/18, para. 105; A/70/212, para. 21; CERD/C/CAN/CO/19-20, para. 11; CERD/C/RUS/CO/19, para. 12; and CERD/C/USA/CO/6, para. 20.

pertaining to the right to liberty of person, the prohibition of arbitrary detention and the prohibition of torture and ill-treatment in cases of immigration detention.

35. OHCHR pursued its work on the protection of the human rights of persons deprived of their liberty in more than 38 countries. The Office continued to monitor detention facilities and to provide technical advice to improve conditions of detention in the Democratic Republic of the Congo, Mauritania, Tunisia, Ukraine and Yemen, among other countries. In 2017, OHCHR convened an intersessional seminar on the exchange of national experiences and practices in the implementation of effective safeguards to prevent torture during police custody and pretrial detention. Discussions focused on three topics: legal and judicial safeguards for the prevention of torture, the implementation of practical measures to prevent torture and ill-treatment, and oversight and complaints mechanisms.

36. In more than 40 countries, OHCHR supported the strengthening of the administration of justice by enhancing the human rights knowledge of members of the judiciary and law enforcement officers. For example, the Office organized a workshop in Eritrea for judicial and law enforcement officials on human rights in the administration of justice. In Saudi Arabia, OHCHR organized two training workshops on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for government and other justice and law enforcement officials. The Office also carried out activities in several countries to strengthen the capacities of judicial actors in the protection of specific groups, such as training on how to address gender-related killings and indigenous peoples' rights.

37. OHCHR continued to build upon its extensive body of work on access to justice and judicial gender stereotyping, including with judicial actors at the regional, national and subnational levels. For example, OHCHR contributed to the development of the "Training manual for judges and prosecutors on ensuring women's access to justice" of the Council of Europe, provided training to lawyers and law enforcement officials in Moldova and organized a round table with the African Court on Human and Peoples' Rights. In collaboration with national judiciaries and experts from the Latin American region, OHCHR also organized three workshops and two online lectures with judges in Argentina and Uruguay to address judicial gender stereotyping and emphasize the role that judiciaries can play in dismantling harmful stereotypes. In addition, OHCHR has developed a facilitator's guide for judges on judicial gender stereotyping, which will be used to build the capacity and raise the awareness of judiciaries around the world and encourage concrete action by them.

38. OHCHR continued to support transitional justice processes and mechanisms in more than 20 countries. The Office actively contributed to transitional justice discussions within the United Nations system and in numerous countries, including the Gambia, Iraq, Nepal, South Sudan, Sri Lanka, the Sudan and Tunisia, in particular regarding laws establishing transitional justice mechanisms. In Colombia, OHCHR supported a victim-centred approach in the establishment of judicial and non-judicial mechanisms to address serious violations of international law committed during the armed conflict. In the Central African Republic, the Office collaborated in the preparation of a mapping report documenting the serious violations of human rights and humanitarian law that were committed in the country from 2003 to 2015. The report, which was released in May 2017, provides an important factual basis for transitional justice processes.

39. OHCHR, in collaboration with other United Nations agencies and programmes developed guidance documents relating to respect for human rights in the administration of justice. OHCHR, the United Nations Entity for Gender Equality and

the Empowerment of Women (UN-Women), the United Nations Development Programme (UNDP) and the United Nations Office on Drugs and Crime (UNODC), in collaboration with members of the Committee on the Elimination of Discrimination against Women, developed *A Practitioner's Toolkit on Women's Access to Justice Programming*, which was published in 2018. In 2017, OHCHR and UNODC published the "Resource book on the use of force and firearms in law enforcement" to support States in their efforts to develop and implement more effective, accountable and human rights-based law enforcement policies.[28]

40. UN-Women country offices support legislative reform initiatives and are engaged in addressing gender stereotypes among justice actors and prioritizing legal awareness. Key developments during the reporting period included the adoption by Malawi of an amendment to its Constitution that resulted in an increase in the minimum age of marriage for girls, from 15 to 18 years, and the comprehensive review of the constitutions of the Central African Republic, Côte d'Ivoire, Nepal, Vietnam and Zimbabwe. Despite these efforts, more than 150 countries continue to have at least one law that discriminates against women and girls. To address this, UN-Women has developed a strategy on levelling the law for women and girls by 2030 to support its efforts to create gender-responsive legal environments at the country level.

41. UN-Women is a member of the Pathfinders for Peaceful, Just and Inclusive Societies group, which bring together Member States, international organizations, global partnerships, civil society organizations and the private sector to promote the implementation of the targets of the 2030 Agenda for Sustainable Development for peace, justice and inclusion. A road map for peaceful, just and inclusive societies was launched during the seventy-second session of the General Assembly, recommending urgent action on the grand challenge of providing access to justice for all. This challenge has been taken forward by a task force on justice. In order to ensure effective gender mainstreaming in the work of the task force, UN-Women is partnering with Pathfinders to launch a high-level working group on women's access to justice. The working group met in The Hague on 28 and 29 May 2018, under the auspices of UN-Women, the International Development Law Organization and Pathfinders.

42. The United Nations Children's Fund (UNICEF) supports Governments and civil society in some 155 countries in implementing the Convention on the Rights of the Child and other international standards. Its work to support human rights in the administration of justice includes supporting legislative reform in favour of the rights of the child, universal access to birth registration and justice for children. UNICEF also provides technical assistance to Governments to support the inclusion of provisions reflecting the rights of the child in constitutions, the development of children's codes and the review of relevant national laws to bring them into line with international standards.

43. From 2016, UNICEF strengthened the justice systems in at least 98 countries for both children in conflict with the law and children who are victims of and witnesses to crime. In at least 46 countries, UNICEF worked specifically with national partners to increase the access of children to legal aid in criminal and civil proceedings.

44. In 2017, in the Occupied Palestinian Territory, UNICEF joined the new five-year phase of the joint UNDP and UN-Women programme entitled "Strengthening the rule of law in the Occupied Palestinian Territory: justice and security for the

[28] OHCHR and UNODC, "Resource book on the use of force and firearms in law enforcement", Criminal Justice Handbook Series (United Nations, New York, 2017).

Palestinian people". This partnership brings together three United Nations agencies working on justice for women and children and the rule of law to coherently and jointly support justice actors at the national and governorate levels in achieving mutually defined key results.

45. UNODC provides technical assistance and legal and expert advice to support legal reforms promoting independent, impartial and effective criminal justice systems that are accessible for all. During the reporting period, UNODC supported more than 40 countries worldwide in adopting or implementing criminal justice reforms focused on access to legal aid, prison governance and non-custodial sanctions, justice for children, gender-sensitive criminal justice responses, and the independence and integrity of the judiciary.

46. During the reporting period, UNODC continued to strengthen the capacity of countries of the Sahel region to effectively investigate, prosecute and adjudicate terrorism cases while upholding human rights and the rule of law, and supported legal aid projects providing basic legal assistance and legal counselling to victims of trafficking in persons in the Lao People's Democratic Republic. UNODC also helped to strengthen the capacity of the judiciary in the application of the international instruments related to the administration of justice in Bahrain and Panama.

47. UNODC developed a number of tools, including a model law on legal aid in criminal justice systems, the "Handbook on children recruited and exploited by terrorist and violent extremist groups: the role of the justice system", a resource book for trainers on effective prosecution responses to violence against women and girls, a handbook on anti-corruption measures in prison and a tool for internal inspection mechanisms to assess compliance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). These tools set out good practices and guiding principles that facilitate the delivery of technical assistance in support of equal access to justice and independent, impartial and effective criminal justice systems. UNODC also launched, in 2018, a global judicial integrity network that provides a global platform for support and learning for judges, lawyers and other stakeholders. At its first meeting, which brought together a large group of Chief Justices and other senior judicial actors, the network adopted a declaration on judicial integrity.

IV. Developments at the national level

48. On 23 March 2018, a note verbale was sent to States requesting contributions to the present report. The following description of developments is based on summaries of the information provided by 19 States.

49. Argentina referred to a number of projects and initiatives of the Undersecretariat of Access to Justice of the Ministry of Justice and Human Rights, which is tasked with guaranteeing effective access to justice. One such project was the creation of the body of lawyers for victims of gender-based violence, whose mission is to ensure access to justice for victims of gender violence. Argentina also provided information on the presence throughout the country of centres for access to justice of the National Directorate for the Promotion and Strengthening of Access to Justice, which advise, assist and accompany people who face barriers to exercising their rights or experience interpersonal or legal conflicts. In 2017, the Undersecretariat entered into a series of agreements with bar associations with a view to implementing a federal network of free legal services. A national programme for assistance for persons with disabilities in their dealings with the administration of justice was established to ensure access to information and the implementation of procedural or reasonable accommodation appropriate to age, gender and type of disability.

50. In its submission, Australia outlined practical measures in place to promote equal access to justice, such as reduced fees for applications brought under the human rights jurisdiction. Other measures include the provision of wheelchair access to court-houses, interpretation services, hearing loops and the use of telephone and video links and mobile courts to allow access to justice in remote areas. Courts also strive to provide culturally appropriate services, for example, through the appointment of an indigenous adviser to help the court to understand relevant cultural issues. Australia provided information on services to address violence against women and children, such as expanded legal assistance and legally assisted, culturally appropriate family dispute resolution.

51. Azerbaijan, in its contribution, described how its legislative framework ensures the protection of human rights in the administration of justice, including in relation to juvenile justice. Reported developments include amendments to the Criminal Code with a view to decriminalizing certain offences and alleviating liability for other crimes. A number of decrees and legislative amendments were adopted in 2017, aimed at implementing alternatives to pretrial detention and incarceration. These include the creation of a probation service and the implementation of penalties that do not amount to deprivation of liberty.

52. Bulgaria reported the entry into force of rules and regulations on the implementation of the law on the execution of sentences that set out the obligations of officials and medical professionals with respect to a complaint of violence, visible signs of violence or cases of the use of physical force or auxiliary means to subdue an inmate. Bulgaria also referred to measures to implement the strategy for addressing overcrowding and reducing the prison population, which include the use of alternative penalties, such as release on parole and conditional early release, as well as ensuring better access to legal assistance. In relation to juvenile justice, Bulgaria reported the transposition in full into national law of the Directive of the European Parliament and of the Council of Europe containing provisions on the rights and procedural status of children who are victims of crime.

53. Colombia provided detailed information on the design of the general post-conflict justice strategy and the related decennial plan on the judicial system adopted in 2017 to increase the effectiveness of the justice system and access to justice. In 2017, Colombia also adopted a law creating an accelerated criminal procedure to reduce the procedural times in the investigation and prosecution of certain offences. Colombia developed strategies to ensure wider access to justice, including the national conciliation strategy designed to offer free extrajudicial conciliation services in law and equity and the local justice systems initiative aimed at guaranteeing the protection of rights through rapid and high-quality responses to the needs of the community. In 2016, a mobile application was launched, through which citizens are informed, in simple language, about procedures or avenues of justice to resolve their conflicts. Decisions by the Constitutional Court ordering the adoption of measures to mitigate violations of the rights of persons deprived of their liberty also led to legislative changes, including the adoption of a law recognizing the rights of persons deprived of liberty and promoting measures to reduce prison overcrowding and a law seeking to streamline and limit the use of pretrial detention, as well as the creation of a national health fund to address shortcomings in health services for persons deprived of their liberty.

54. Cuba provided information on constitutional provisions protecting access to justice for all and the independence of the judiciary. In performing their functions, Cuban judges base their actions on humanism and respect for due process and the human rights of the accused and all those who intervene in judicial procedures. Cuba also indicated that work was being carried out on mechanisms and avenues for the population to have more information about judicial processes.

55. In Czechia, in 2017, a legislative amendment enlarging the scope of legal aid to include administrative proceedings and representation before the Constitutional Court was adopted. The amendment also provides for legal consultations at a low cost for all and free of cost for those under the age of 15 years, beneficiaries of allowances for material need and foreign nationals placed in alien detention facilities. A strategic document on the prison service focused on reducing the reoffending rate and thereby prison overcrowding was approved, and an electronic monitoring system was implemented. With regard to alternatives to detention, the information provided indicates that prison sentences represent 15 per cent of all sentences imposed and that, in other cases, alternatives such as conditional sentences, community service, house arrests and fines are imposed.

56. Egypt outlined the constitutional and legislative frameworks for national legal remedies, which strike a balance between individual freedom and public interest and set the conditions that guide the Prosecutor in issuing arrest orders. Egypt reported that the National Council for Women, whose primary objective is to combat discrimination against women, can receive complaints about discriminatory treatment in the workplace. Egypt also outlined the constitutional and legislative provisions establishing mechanisms that allow the Prosecutor to investigate torture allegations. Egypt also reported that judicial oversight of places of detention and pretrial detention is regulated and explicitly stipulated in the law on prisons, by which heads of first instance and appeal courts, as well as judges, have the right to obtain access to prisons relevant to their jurisdiction at any time.

57. El Salvador provided information on the successful use of "virtual hearings" through videoconferencing following an amendment to the Code of Criminal Procedure allowing this type of hearing with a view to ensuring prompt access to a judge. El Salvador also reported the creation of specialized courts for addressing offences detailed in the law of 2016 on a life free from violence for women. El Salvador also provided information on measures taken to reduce overcrowding in detention facilities, including the establishment of an electronic prison information system that can monitor prison management, control the path of persons through the penitentiary system and inform courts about the completion of terms of detention and sentences.

58. In Honduras, amendments authorizing the use of electronic surveillance as an alternative to pretrial detention and "virtual hearings" to accelerate proceedings and decongest the penitentiary system were adopted in 2017. Honduras provided information on the measures taken to address overcrowding, such as the construction of new penitentiary establishments and the reconfiguration of some existing ones. Honduras also noted the difficulties of addressing overincarceration given the trend of reducing the number of offences for which judges can order alternatives to pretrial detention, which is in contradiction with the norm that pretrial detention should be the exception rather than the rule. Honduras provided detailed information on practical measures adopted to respect human rights in the context of juvenile justice and to ensure access to justice for minors who are victims of crime.

59. Iraq provided information on the constitutional and legislative provisions *protecting human rights in the* administration of justice. Iraq also reported that, in 2017, a law had been adopted to move the Judicial Institute from the Ministry of Justice to the Supreme Judicial Council with a view to strengthening the independence of the judiciary and respect for the rule of law. Iraq also described a decree, adopted in 2017, establishing a committee composed of retired judges to review all legislation for compliance with the country's international human rights obligations.

60. Italy provided information on how the Constitution and the Constitutional Court protect human rights in the administration of justice and on a number of legislative changes during the reporting period. The crime of torture was introduced into the Criminal Code, together with the crime of incitement to torture by public officials. Amendments with a view to facilitating the use of alternative measures, promoting reparative justice and increasing the use of financial penalties were adopted, as were legislative decrees regarding the decriminalization of certain offences. A number of practical measures were taken to improve conditions for persons deprived of their liberty. Italy also reported a drop in its prison population, an increase in the number of persons admitted to alternative measures and a resulting increase in the number of regulatory detention places during the reporting period. Improvements in relation to juveniles coming into contact with the administration of justice were also reported, including an 80 per cent success rate for probation, the fact that juveniles under the age of 24 years now fall within the juvenile system, and the prohibition of forced returns of foreign nationals who are under the age of 18 years.

61. Monaco provided information on its legal framework to protect the independence and impartiality of the judiciary and recognize access to justice without discrimination. Monaco also noted practical mechanisms that support equal access to justice, such as the High Commissioner for the protection of rights and freedoms and mediation, as well as a legal aid system.

62. Myanmar reported recent developments and efforts aimed at ensuring equal access to justice for all, including the following: the enactment of the law on legal aid and the promulgation of related rules; the adoption of a code of judicial ethics based on the Bangalore Principles of Judicial Conduct; visits by judges of all levels to places of detention to ensure legal rights for those deprived of their liberty; and the provision of training for the judiciary.

63. Romania provided information on how its legislative framework seeks to protect human rights in the administration of justice, namely, by ensuring equality of arms and free and equal access to justice and through laws providing for legal assistance.

64. The Russian Federation reported on the ongoing implementation of an order issued to ensure the accessibility of courtrooms for persons with disabilities, noting that more than 3,000 court buildings were accessible, as well as on the approval of a programme for the reconstruction of court buildings, which would take into consideration the input of persons with disabilities. The Russian Federation also described a number of measures aimed at increasing access to information and the efficiency of judicial procedures. These include a single online register of court decisions, a filing system for claims, the introduction of video and audio recording in court hearings, the publication of court orders and jurisprudence online, and the use of electronic documents in the activities of the organs of the judicial branch. In 2018, the Supreme Court prepared digests of legal conclusions of international human rights mechanisms, including special procedures of the Human Rights Council, as well as treaty bodies.

65. In Serbia, a law on the protection of the right to a trial in a reasonable time was adopted, providing a right to a remedy if one of the parties finds that the trial has been unreasonably long. Serbia also described a series of practical measures aimed at strengthening access to justice, including the following: the appointment of court interpreters for sign language; the training of judicial actors on gender-based violence and juvenile offenders and victims; and the distribution of handbooks for detainees and convicts informing them of their rights and on complaints mechanisms and requests for judicial protection. Serbia reported the establishment of a network of services for support to injured parties and witnesses in judicial institutions, as well as specific units to provide support for children in criminal proceedings. Serbia also

provided information on the adoption of a strategy for reducing overcrowding that foresees the development of a system for alternatives to detention.

66. Slovenia reported that equal treatment is one of the most c nmon bases for complaints before the constitutional court. Slovenia also described measures to ensure access to justice by children and access to courts and remedies during detention, including the obligation of the court, during the trial, to verify every two months whether the reasons for detention still exist.

67. Switzerland reported that it has mandated the Swiss Centre of Expertise in Human Rights to conduct a study on access to justice in cases of discrimination. The Federal Council committed itself to examining the recommendations regarding the following: strengthening of protection; the reduction of costs for civil litigation; awareness-raising and data collection on discrimination; equality for persons with disabilities; and lesbian, gay, bisexual, transgender and intersex persons. Switzerland also provided information on the entry into force of new accelerated asylum procedures, which include the right to legal counsel and representation for asylum seekers.

V. Conclusions

68. **The developments, challenges and good practices highlighted in the present report underscore the essential role that an independent and impartial judiciary plays in the implementation of access to justice and the protection of human rights. The findings of human rights treaty bodies and special procedures shed light on how to translate access to justice for all into practice. These mechanisms also play an important role in the interpretation of relevant human rights law instruments. Their work demonstrates that discriminatory legislation and practices, as well as prejudice and bias of officials at all steps of the criminal justice chain, contribute to the overincarceration of persons with increased vulnerability. In order to address these challenges, States should assess the impact of their legislation and practices relating to deprivation of liberty on persons with increased vulnerability, in particular by collecting comprehensive, disaggregated data on persons deprived of their liberty.**

69. **During the reporting period, United Nations entities continued to assist States in the development of norms and standards regarding human rights in the administration of justice, as well as in their implementation at the national level, in particular through the provision of technical assistance and advocacy.**

70. **As highlighted in States' submissions, while legislative provisions in line with international human rights standards are a prerequisite for non-discrimination and equal access to justice for all, practical measures adapted to each context are essential to ensure the implementation of this right on the ground. Practical measures and the implementation of alternatives to pretrial detention and prison sentences are also key in addressing the disproportionate negative impact of criminal justice on certain groups.**